



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

DEAN ALTON HOLCOMB,
Plaintiff,

vs.

CIVIL ACTION NO. 6:17-02001-MGL

GREENVILLE COUNTY CLERK OF
COURT; PAUL B. WICKENSIMER;
DONNA BEARDEN; LETITIA HAMILTON
VERDIN; JUDGE GARRISON HILL,
G'ville, S.C.; MAGISTRATE JUDGE
JAMES HUDSON, G'ville, S.C.; ASST.
SOLICITOR SYLVIA HARRISON, G'ville,
S.C.; ASST. SOLICITOR RUSSELL D.
GHENT, Spartanburg, S.C.; WALT
WILKINS, 13th Circuit Solicitor; BARRY
BARNETTE, Spartanburg Solicitor; G'VILLE
PUBLIC DEFENDER'S OFFICE;
SPARTANBURG PUBLIC DEFENDER'S
OFFICE; JOHN VANDERMOSTEN,
G.C.D.C. Jail Administrator; WARDEN
TIM RILEY, Columbia, S.C. Kirkland C.I.;
GENERAL COUNSEL BARTON VINCENT,
S.C.D.C.; GENERAL COUNSEL ANNIE
RUMLER, S.C.D.C.; MS. ALBERT,
Kirkland Mail Supervisor; and MAGISTRATE
LELA FOSTER, all in their official and
individual capacity,
Defendants.

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING THE COMPLAINT WITHOUT PREJUDICE
AND WITHOUT ISSUANCE AND SERVICE OF PROCESS**

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United

States Magistrate Judge suggesting the Complaint be dismissed without prejudice and without issuance and service of process. The Report further recommends the dismissal be without prejudice to Plaintiff's right to file an amended complaint within twenty-eight (28) days after the Court's order, but that after such time, the dismissal becomes with prejudice. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on August 23, 2017, but Plaintiff failed to file any objections to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court the Complaint is **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process. It is further **ORDERED** this dismissal is without prejudice to

Plaintiff's right to file an amended complaint within 28 days after the Court's Order, but that after such time, the dismissal becomes with prejudice.

IT IS SO ORDERED.

Signed this 12th day of September, 2017, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.